IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7240 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT INDUSTRIAL CO-OP BANK LTD - Petitioner(s)

Versus

ARVIND CHHAGANLAL DODIYA - Respondent(s)

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Appearance :

MR DIPAK R DAVE for Petitioner No(s).: 1.

MS PARUL P VASAVADA for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 04/08/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the award dated 28.05.1999 passed by the Labour Court, Amreli in Reference (LCA) No. 5 of 1998, whereby the petitioner was directed to reinstate the respondent on his original post with continuity of service and all other benefits.

2.0 The brief facts of the case are that the respondent herein was employed as a daily wage Clerk by the petitioner Bank and was continued in service from time to time. On 03.07.1982 the respondent was terminated from the service since alternative arrangement was made for the said Post. Being aggrieved by the said order, the respondent raised an industrial dispute by way of a reference. The Labour Court, Amreli, after hearing the parties and after considering the evidence on record, passed the impugned award with the aforesaid directions. Hence, this petition.

3.0 Mr. D R Dave learned advocate for the petitioner has contended that since the respondent was working as a Probationer, he has no right to continue on the said Post. He has submitted that the termination of the respondent cannot be said to be illegal since he was employed without following the Rules and Regulations of the petitioner Bank and was employed only to discharge the work load on contingency basis and that to for a stipulated period. He has, therefore, submitted that the Labour Court has committed serious error by passing the impugned award.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. The issue raised in this petition is squarely covered by a decision of a Division Bench of this Court in the case of ***PK Shah v. Gujarat Industrial Co-Op. Bank Limited*** reported in ***2001 (1) G.L.R. pg. 108***, wherein it has been held that where there is a dispute between an employee and a Banking Company having its activity in more than one State, only on a reference by the Central Government, an Industrial Court can decide the dispute. In the above referred case, since the reference was made by the State Government, the award of the Labour Court was held to be null and void.

4.1 In view of the principle laid down in the aforesaid decision, this petition is required to be allowed. Hence, the impugned award dated 28.05.1999 passed by the Labour Court, Amreli in Reference (LCA) No. 5 of 1998 is quashed and set aside. However, it shall be open to the respondent to raise the dispute in question before the appropriate authority. Rule is made absolute accordingly with no order as to costs.

(K. S. JHAVERI, J.)

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